

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

TRUIST BANK,

Plaintiff,

v.

CIVIL NO. 1:23-CV-47  
(KLEEH)

FUSION TECHNOLOGY, LLC,  
JOHN BOTT, and  
SHARON R. PITSENBARGER,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 38]  
AND DENYING MOTION AS MOOT [ECF NO. 11]**

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On November 7, 2023, pursuant to 28 U.S.C. § 636 and the local rules, the Court referred this action to United States Magistrate Judge Michael J. Aloi (the "Magistrate Judge") for review. On March 8, 2024, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court deny Plaintiff's *Motion for Appointment of Special Receiver and for Injunctive Relief* as moot.

The R&R informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned them that the "[f]ailure to timely file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by

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the Circuit Court of Appeals." To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 38]. The *Motion for Appointment of Special Receiver and for Injunctive Relief* is **DENIED AS MOOT** [ECF No. 11]. Defendants shall answer or otherwise response to the Complaint on or before **April 8, 2024**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record.

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DATED: March 25, 2024

*Tom S Klee*

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THOMAS S. KLEEH, CHIEF JUDGE  
NORTHERN DISTRICT OF WEST VIRGINIA